

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

**RICARDO PARSON,**

**Plaintiff,**

**V.**

**ABSOLUTE HOME AND COMMUNITY  
SERVICE, INC.,**

**Defendant.**

**CIVIL ACTION FILE NO.**

**JURY TRIAL DEMANDED**

**COMPLAINT**

COMES NOW Plaintiff, Ricardo Parson (“Plaintiff” or “Mr. Parson”), by and through undersigned counsel, The Kirby G. Smith Law Firm, LLC, and hereby files this Complaint against the Defendant Absolute Home and Community Service, Inc. (“Defendant” or “Absolute Home”), stating as follows:

**I. PARTIES**

1. Plaintiff is a citizen of the United States and a resident of Wilson County, NC.
2. Defendant is a corporation registered to conduct business in the State of North Carolina.
3. Defendant may be served through its registered agent, Ms. Eunice Modilim, located at 1140 Benson Rd, Ste 201, Garner, NC 27529.

**II. JURISDICTION AND VENUE**

4. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 over Counts I-II of this Complaint, which arises out of the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (“FLSA”).
5. This Court has jurisdiction over the parties of this action because a substantial portion of

the employment practices described herein took place in Wake County, North Carolina.

6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.
7. Plaintiff was an employee of Defendant under FLSA.
8. Defendant's employees, including Plaintiff, routinely handled or otherwise worked on goods or materials that had been moved in interstate commerce.
9. Defendant's enterprise has an annual gross volume of sales of at least \$500,000.
10. Defendant is subject to the requirements of the FLSA.

### **III. FACTUAL ALLEGATIONS**

11. Plaintiff worked for Defendant as a Group Home Manager in Garner, NC.
12. As the Group Home Manager, Plaintiff was primarily responsible for administering medications and meals to patients in the home.
13. Plaintiff also assisted patients who needed to attend a medical appointment, either in person or via video teleconference.
14. Plaintiff did not have any supervisory authority, and he did not exercise discretion with respect to matters of significance.
15. Upon information and belief, a substantial portion of the medications Plaintiff administered were manufactured out of state and sold through interstate commerce.
16. Defendant provided Plaintiff a landline to use as part of his job.
17. Upon information and belief, the landline was manufactured out of state and sold through interstate commerce.
18. Plaintiff used an LG Stylo 5 Sprint cell phone as part of his job.
19. The cell phone was manufactured out of state and sold through interstate commerce.
20. Plaintiff used a computer and a printer for his position, both of which were manufactured

out of state and sold through interstate commerce.

21. From July 3, 2019, until November 7, 2020, Plaintiff lived in the Group Home facility and was on-duty for 16 hours per day, 7 days per week.

22. During that same timeframe, Plaintiff was paid a lump sum of \$1,000 every two (2) weeks, regardless of how many hours Plaintiff worked in excess of 40 each week.

23. If Plaintiff worked less than 40 hours, his pay was decreased by \$12.50 per hour.

24. In October 2020, Plaintiff filed a complaint with the United States Department of Labor stating that he was not being paid overtime.

25. On or around December 2, 2020, Defendant terminated Plaintiff.

26. On March 4, 2021, the Department of Labor found that Defendant violated Plaintiff's FLSA rights.

#### **IV. CLAIM FOR RELIEF**

##### **COUNT I**

##### **FLSA: UNPAID OVERTIME**

27. Plaintiff incorporates by reference paragraphs 1-26 of his Complaint as if fully set forth herein.

28. Defendant is subject to FLSA coverage as an enterprise engaged in commerce with annual gross volume of sales not less than \$500,000.

29. Plaintiff was an employee of Defendant.

30. Plaintiff worked an average of 72 hours per week that qualified as "overtime" under the FLSA.

31. Plaintiff was not paid for any time worked beyond 40 hours per week.

32. Plaintiff is entitled to one and one-half times her regular rate for each hour of overtime

worked.

33. Defendant willfully failed to pay Plaintiff any amount for her overtime hours.

## **COUNT II**

### **FLSA: RETALIATION**

34. Plaintiff incorporates by reference paragraphs 1-26 of his Complaint as if fully set forth herein.

35. Defendant is subject to FLSA coverage as an enterprise engaged in commerce with annual gross volume of sales not less than \$500,000.

36. Plaintiff was an employee of Defendant.

37. Plaintiff engaged in protected activity under FLSA when she filed a complaint with the Department of Labor.

38. The temporal proximity between Plaintiff's protected activity and his termination supports a finding of causation.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

- a. Trial by jury;
- b. A finding that Defendant violated Plaintiff's rights as set forth herein;
- c. All unpaid overtime plus interest, liquidated damages, reasonable attorney fees, and costs in accordance with the FLSA; and
- d. Any other relief this Court deems proper and just.

Respectfully submitted this 6th day of July, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

/s/Alexander C. Kelly  
Alexander C. Kelly  
North Carolina Bar No. 49308  
*Attorney for Plaintiff*

THE KIRBY G. SMITH LAW FIRM, LLC  
111 N. Chestnut St.  
Suite 200  
Winston-Salem, NC 27101  
T: (704) 729-4287  
F: (877) 352-6253  
ack@kirbygsmith.com

**JURY DEMAND**

Plaintiff requests a jury trial on all questions of fact raised by this Complaint.

Respectfully submitted this 6th day of July, 2021.

THE KIRBY G. SMITH LAW FIRM, LLC

/s/Alexander C. Kelly

Alexander C. Kelly

North Carolina Bar No. 49308

*Attorney for Plaintiff*

THE KIRBY G. SMITH LAW FIRM, LLC

111 N. Chestnut St.

Suite 200

Winston-Salem, NC 27101

T: (704) 729-4287

F: (877) 352-6253

ack@kirbygsmith.com